

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|--|---|-----------------|
| RONELL SHAMAR NICHOLS, | : | |
| Plaintiff, | : | |
| v. | : | No. 15-cv-00527 |
| | : | |
| DAVID BYRNE, George W. Hill Correctional | : | |
| Facility Warden; | : | |
| CORRECTIONAL OFFICER GOKMAN; | : | |
| CORRECTIONAL OFFICER SABINTINO; | : | |
| CORRECTIONAL OFFICER SERGEANT | : | |
| CLARK; | : | |
| GRIEVANCE COORDINATOR KEVIN M. | : | |
| CONROY; | : | |
| CORRECTIONAL LIEUTENANT MOORE; | : | |
| DEPUTY WARDEN MARIO COLUCCI, | : | |
| Defendants. | : | |

ORDER

AND NOW, this 13th day of September, 2016, upon consideration of Defendants David Byrne, Correctional Officer Gokman, Correctional Officer Sabintino, Grievance Coordinator Kevin M. Conroy, Lieutenant Moore, and Deputy Warden Mario Colucci's Motion to Dismiss Plaintiff's Second Amended Complaint, ECF No. 48, and Plaintiff's Motion for Appointment of Counsel, ECF No. 54, and for the reasons set forth in the Memorandum Opinion issued this date, **IT IS ORDERED** as follows:

1. Defendants' Motion to Dismiss, ECF No. 48, is **GRANTED in part and DENIED in part**, as follows.
 - a. Defendants' Motion to Dismiss Plaintiff's deliberate indifference claim with respect to Defendants Gokman and Sabintino is **DENIED**;

- b. Defendants' Motion to dismiss all claims against Defendant Byrne is
GRANTED. All claims against Defendant Byrne are **DISMISSED with prejudice**;
 - c. Defendants' Motion to dismiss all claims against Defendants Conroy, Moore, and Colucci is **GRANTED**. All claims against Defendants Conroy, Moore, and Colucci are **DISMISSED without prejudice**.
2. Plaintiff is permitted **LEAVE TO AMEND** his Second Amended Complaint only with respect to his claims against Defendants Conroy, Moore, and Colucci, consistent with the Memorandum issued this date. If Plaintiff chooses to file a Third Amended Complaint, he must do so no later than **October 7, 2016**.¹
3. Plaintiff is permitted additional time in which to serve Defendant Sergeant Clark, as follows.
- a. The Clerk of Court shall issue a duplicate summons to the U.S. Marshals Service for Defendant Clark;
 - b. The U.S. Marshals Service shall furnish Plaintiff with a blank USM-285 form;
 - c. If Plaintiff is aware of the correct address for Defendant Clark, Plaintiff shall provide this information on the blank USM-285 form that will be mailed to him and return the form no later than **October 14, 2016**. If Plaintiff fails to supply this information, the Court may, without further notice, dismiss Clark without prejudice pursuant to Federal Rule of Civil Procedure 4(m);

¹ Plaintiff is advised that "any amended complaint must be complete in all respects. It must be a new pleading that stands by itself as an adequate complaint without reference to any documents already filed." *Bowens v. Employees of the Dep't of Corr.*, No. 14-2689, 2015 U.S. Dist. LEXIS 23147, at *28 (E.D. Pa. Feb. 26, 2015). "Each allegation must be simple, concise, and direct." Fed. R. Civ. P. 8(d)(1). The complaint should be specific as to conduct, time, place, and persons responsible. *See Evancho v. Fisher*, 423 F.3d 347, 353 (3d Cir. 2005).

- d. If Plaintiff supplies an address for Clark, the U.S. Marshals Service shall attempt service of Plaintiff's current complaint.
- 4. Plaintiff's Motion to Appoint Counsel, ECF No. 54, is **DENIED without prejudice**.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge